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8 *Attorneys for Rabo AgriFinance LLC*

9 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
10 WASHINGTON, RICHLAND DIVISION

11 RABO AGRIFINANCE LLC, a Delaware
12 limited liability company, fka Rabo
Agrifinance, Inc.,

13 Plaintiff / Counterclaim-Defendant,
14

15 v.

16 KAREN EASTERDAY, as an individual, as
17 the personal representative of the estate of
Gale Easterday, deceased, and the marital
18 community of Karen Easterday and Gale
Easterday; CODY EASTERDAY and
19 DEBBY EASTERDAY, individually and the
marital community thereof; and JODY
20 EASTERDAY, individually and the marital
community of Jody Easterday and Andrew H.
Wills,
21

22 Defendants / Counterclaim-Plaintiffs.
23

24 **Civil Case No. 21-CV-05066**

25 RABO AGRIFINANCE LLC'S REPLY
STATEMENT OF MATERIAL FACTS
NOT IN DISPUTE

(IN REPLY TO KAREN EASTERDAY'S
OPPOSITION)

Statement of Facts Not in Dispute
(in Reply to Karen's Opposition)

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Rabo AgriFinance LLC (“**Rabo**”), through counsel, hereby submits its Reply Statement of Material Facts Not in Dispute. This statement is in response to *Karen Easterday’s (I) Statement of Disputed Material Facts in Response to Rabo AgriFinance LLC’s Statement of Material Facts*, ECF No. 79.¹

**RESPONSE TO KAREN EASTERDAY’S STATEMENT
OF DISPUTED MATERIAL FACTS**

Rabo set forth thirty-one (31) statements of fact that it contends were undisputed in support of its motion for partial summary judgment against the Defendants. *See* ECF No. 68. Karen responded to those fact statements as follows:

1. In response to Statements of Fact Nos. 1, 2, 3, 4, 5 and 16, Karen asserts they are moot and no response is required. While Rabo acknowledges that subsequent to the filing of Rabo’s Motion for Summary Judgment (ECF No. 67), this Court ruled that Parcel A of the 2009 Mortgage did not secure the loan (the “**VF Loan**”) that was made under the Vendor Financing Agreement (the “**VFA**”) this ruling is not a final, non-appealable decision and Rabo retains its appeal rights.

¹ Karen has filed a statement of undisputed facts in support of her own cross-motion for summary judgment that is also contained in ECF No. 79. Rabo will respond to those statements when it files its opposition memorandum to Karen’s cross-motion, which is due September 9, 2022.

As such these facts could become relevant and material in the future and Rabo is not waiving any rights in connection therewith.

2. In response to Statements of Fact Nos. 21, 22, 23, 24, 25, 26, 27, 28,
3
4 29, 30 and 31, Karen does not dispute those statements.

5. Rabo responds as follows to the remaining Statements of Fact that
6 Karen has disputed or has maintained should be stricken as follows:

8 A. Karen responds that paragraph 6 is moot and is conclusory,
9 asserts a legal conclusion, lacks adequate foundation and therefore should be
10 stricken. With respect to the first sentence of this paragraph, Rabo agrees that it is
11 currently moot but incorporates by reference its mootness response as set forth
12 above. With respect to the remainder of paragraph 6, it contains a quote from the
13 2009 Credit Agreement a copy of which is attached to the Declaration of Mike
14 Hayes (the “**Hayes Decl.**”). Further, the testimony in paragraph 34 of the Hayes
15 Decl. is supported by the 2009 Credit Agreement. Therefore, paragraph 6 is not
16 objectionable and should not be stricken.

20 B. Karen responds that paragraph 7 is moot and is conclusory,
21 asserts a legal conclusion, lacks adequate foundation and therefore should be
22 stricken. With respect to this paragraph, Rabo agrees that it is currently moot but
23 incorporates by reference its mootness response as set forth above. Rabo further
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notes that this paragraph simply contains a partial quote from the 2009 Mortgage,

which speaks for itself, and a copy of which is attached to the Hayes Decl.

Further, the testimony in paragraph 35 of the Hayes Decl. is supported by the 2009 Mortgage. Therefore, paragraph 7 is not objectionable and should not be stricken.

C. Karen responds that paragraph 8 is moot and is conclusory, asserts a legal conclusion, and the document speaks for itself and therefore should be stricken. With respect to this paragraph, Rabo agrees that it is currently moot but incorporates by reference its mootness response as set forth above. Rabo further notes that this paragraph contains statements that are evidenced by the terms of the 2009 Mortgage and the 2009 Credit Agreement, which speaks for themselves, and copies of which are attached to the Hayes Decl. Further, the testimony in paragraph 37 of the Hayes Decl. is supported by the 2009 Mortgage and 2009 Credit Agreement. Therefore, paragraph 8 is not objectionable and should not be stricken.

D. Karen responds that paragraph 9 is moot and is conclusory, asserts a legal conclusion, and the document speaks for itself and therefore should be stricken. With respect to this paragraph, Rabo agrees that it is currently moot but incorporates by reference its mootness response as set forth above. Rabo further notes that this paragraph contains statements that are evidenced by the

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terms of the 2009 Mortgage and the 2009 Credit Agreement, which speaks for themselves, and copies of which are attached to the Hayes Decl. Further, the testimony in paragraph 37 of the Hayes Decl. is supported by the 2009 Mortgage and 2009 Credit Agreement. Therefore, paragraph 9 is not objectionable and should not be stricken.

E. Karen does not dispute paragraph 10 but states she is not a signatory to the VFA and thus cannot respond to the first and third sentences of paragraph 10 even though a review of the documents referenced provides supporting evidence of the statements. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with knowledge of Easterday Farms' contracts and obligations under applicable law. Karen does not dispute the second sentence of this paragraph.

F. Karen responds that paragraph 11 is moot and is conclusory, asserts a legal conclusion, and the document speaks for itself and therefore should be stricken. With respect to this paragraph, Rabo agrees that it is currently moot but incorporates by reference its mootness response as set forth above. Rabo further notes that this paragraph contains a statement that is evidenced by the terms of the VFA, which speaks for itself, and a copy of which is attached to the Hayes

Decl. Further, the testimony in paragraph 40 of the Hayes Decl. is supported by the VFA. Therefore, paragraph 11 is not objectionable and should not be stricken.

G. Karen does not dispute paragraph 12 but states she is not a signatory to the VFA and thus cannot respond to this paragraph even though a review of that document provides supporting evidence of the statement. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with knowledge of Easterday Farms' contracts and obligations under applicable law.

H. Karen states in response to paragraph 13 that she is not a signatory to the VFA and thus cannot respond to this paragraph even though a review of that document provides supporting evidence of the statement. Karen also responds that the statement asserts a legal conclusion, the document speaks for itself and it should be stricken. Rabo states that this paragraph contains a statement that is evidenced by the terms of the VFA, which speaks for itself, and a copy of which is attached to the Hayes Decl. Further, the testimony in paragraph 42 of the Hayes Decl. is supported by the VFA. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with knowledge of Easterday Farms' contracts and obligations under

applicable law. Therefore, paragraph 13 is not objectionable and should not be stricken.

I. Karen states in response to paragraph 14 that she is not a signatory to the VFA and thus cannot respond to this paragraph even though a review of that document provides supporting evidence for the statement. Karen also responds that paragraph 14 asserts a legal conclusion, and the document speaks for itself and therefore should be stricken. Rabo states that this paragraph contains a statement that is evidenced by the terms of the VFA, which speaks for itself, and a copy of which is attached to the Hayes Decl. Further, the testimony in paragraph 43 of the Hayes Decl. is supported by the VFA. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with knowledge of Easterday Farms' contracts and obligations under applicable law. Therefore, paragraph 14 is not objectionable and should not be stricken.

J. Karen states in response to paragraph 15 that she is not a signatory to the VFA and thus cannot respond to this paragraph even though a review of that document provides supporting evidence of the statement. Karen also responds that paragraph 15 asserts a legal conclusion, and the document speaks for itself and therefore should be stricken. Rabo states that this paragraph

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contains a statement that is evidenced by the terms of the VFA, which speaks for itself, and a copy of which is attached to the Hayes Decl. Further, the testimony in paragraph 44 of the Hayes Decl. is supported by the VFA. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with knowledge of Easterday Farms' contracts and obligations under applicable law. Therefore, paragraph 15 is not objectionable and should not be stricken.

K. Karen does not dispute the statement in paragraph 17 that Gale Easterday passed away. Karen states in response to the remainder of paragraph 17 that she is not a signatory to the VFA and thus cannot respond to this paragraph even though a review of that document, along with the 2009 Credit Agreement provides supporting evidence of the statements. Karen also responds that paragraph 17 asserts a legal conclusion, the documents speak for themselves and should be stricken. Rabo states that this paragraph contains statements that are evidenced by the terms of the VFA and the 2009 Credit Agreement, which speak for themselves, and copies of which are attached to the Hayes Decl. Further, the testimony in paragraphs 23 and 46 of the Hayes Decl. is supported by the VFA and the 2009 Credit Agreement. Rabo also notes that Karen is a general partner of Easterday Farms, which is a signatory to the document, and she is chargeable with

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knowledge of Easterday Farms' contracts and obligations under applicable law.

1 Therefore, paragraph 17 is not objectionable and should not be stricken.

2 L. Karen does not dispute the statement in paragraph 18 that
3 Easterday Farms filed for bankruptcy on February 18, 2021 and was a Washington
4 general partnership. With respect to the remainder of paragraph 18, Karen
5 responds that they are legal conclusions and should be stricken. Rabo states that
6 this paragraph contains statements that are evidenced by the terms of the VFA and
7 public documents in the Easterday Farm's bankruptcy case, which speak for
8 themselves, and a copy of the VFA is attached to the Hayes Decl. and the other
9 documents referenced in paragraph 18 are public filings in the Easterday Farms
10 bankruptcy case. Further, the testimony in paragraph 47 of the Hayes Decl. is
11 supported by the VFA and the public bankruptcy documents. Rabo also notes that
12 Karen is a general partner of Easterday Farms, which is a signatory to the
13 document, and she is chargeable with knowledge of Easterday Farms' contracts
14 and obligations under applicable law. Therefore, paragraph 18 is not objectionable
15 and should not be stricken.

16 M. Karen disputes paragraph 19 because she asserts it is a legal
17 conclusion and because it is legally incorrect. Rabo states that this paragraph
18 contains a statement that is evidenced by the terms of the VFA, which speaks for
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1 itself, and a copy of which is attached to the Hayes Decl. and the VFA provides
2 that default interest accrues at the rate of 21% per annum. The remainder of
3 paragraph 19 simply states the amount due and owing on the VF Loan as of
4 February 8, 2021 and then includes the mathematical calculation of the unpaid
5 contract interest and the unpaid default interest after that date. Further, the
6 testimony in paragraphs 48 and 49 of the Hayes Decl. is supported by the VFA.
7
8 Rabo also notes that Karen is a general partner of Easterday Farms, which is a
9 signatory to the document, and she is chargeable with knowledge of Easterday
10 Farms' contracts and obligations under applicable law. Therefore, paragraph 19 is
11 not objectionable and should not be stricken.
12
13

N. Karen disputes paragraph 20 because she states it asserts the
incorrect default interest rate. However, the VFA specifically states that the
default rate of interest is 21% and the remaining portion of paragraph 20 contain
mathematical calculations. Further, the testimony in paragraphs 50 of the Hayes
Decl. is supported by the VFA. Rabo also notes that Karen is a general partner of
Easterday Farms, which is a signatory to the document, and she is chargeable with
knowledge of Easterday Farms' contracts and obligations under applicable law.
Therefore, paragraph 20 is not objectionable.

DATED this 2nd day of September, 2022.

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